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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/837,852	04/18/2001	Brian Mark Shuster	409475-27	9134
23879	7590	07/16/2004	EXAMINER	
BRIAN M BERLINER, ESQ O'MELVENY & MYERS, LLP 400 SOUTH HOPE STREET LOS ANGELES, CA 90071-2899			THOMPSON JR, FOREST	
			ART UNIT	PAPER NUMBER
			3625	

DATE MAILED: 07/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/837,852

Applicant(s)

SHUSTER, BRIAN MARK

Examiner

Forest Thompson Jr.

Art Unit

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 April 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 April 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

1. Claims 1-17 have been examined.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-17 are rejected under 35 U.S.C. 102(e) as being anticipated by Johnson et al. (U.S. Patent No. 6,591,250).

Examiner's Note: Examiner has cited particular columns and line numbers in the reference as applied to the claims below for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the reference in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Claims 1, 9: Johnson et al. teaches:

- a server (col. 4 lines 59-65);
- maintaining an inventory of said virtual properties accessible by a user via a network connection (col. 22 lines 10-23);
- managing ownership of said virtual properties (col. 22 lines 10-23); and
- allowing use of said virtual properties by corresponding property owners within corresponding network spaces (col. 5 lines 9-25).

Claims 2, 11: Johnson et al. teaches searching for a desired one of said virtual properties within said inventory (col. 17 lines 23-54).

Claims 3, 12: Johnson et al. teaches associating said virtual properties with respective ones of said property owners (col. 5 lines 9-25).

Claims 4, 13: Johnson et al. teaches said managing step further comprises transferring ownership of one of said virtual properties (col. 7 lines 50-62).

Claims 5, 14: Johnson et al. teaches said transferring step further comprises selling said one of said virtual properties to a customer (col. 17 lines 24-38).

Claims 6, 15: Johnson et al. teaches said transferring step further comprises trading said one of said virtual properties for another one of said virtual properties (col. 3 lines 21-32).

Claims 8, 17: Johnson et al. teaches coordinating with partners via said network to identify additional virtual properties not included in said inventory (col. 13 lines 43-59).

Claim 10: Johnson et al. teaches a memory connected to said server and having a database of all said virtual properties maintained by said computer system (col. 2 lines 5-39).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 7 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson et al. (U.S. Patent No. 6,591,250) as applied to claims 1 and 9 above, and further in view of Official Notice.

Examiner's Note: Examiner has cited particular columns and line numbers in the reference as applied to the claims below for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the reference in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Claims 7, 16: Johnson et al. does not explicitly teach said transferring step further comprises winning one of said virtual properties from another property owner in the course of a game. Johnson et al. does teach playing a game using virtual property belonging to players of the game (col. 17 line 24 – col. 19 line 48). Official Notice is taken that it was old and well known in the art at the time the invention was made that the winners of games may receive prizes or compensation of some form from the losers of the game. An example is a game of poker where the winner gets the “pot” or bets and the losers lose their contribution in the pot. Therefore it would have been obvious to one skilled in the art at the time the invention was made to modify the invention of Johnson et al. to explicitly state that the transferring step further comprises winning one of said virtual properties from another property owner in the course of a game, as taught by old and well known art, for the motivation of encouraging participation by users and managing virtual properties.

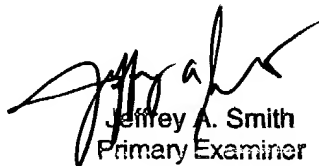
Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Forest Thompson Jr. whose telephone number is (703) 306-5449. The examiner can normally be reached on 6:30 AM-3:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on (703) 308-1065. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

FT
07/12/2004



Jeffrey A. Smith
Primary Examiner